

REMARKS

This present Response is being filed in reply to the Office Action dated November 26, 2007. Applicant requests a three month extension of time, including the associated fee, extending the period of response to and including May 27, 2008.

By the present amendment, claims 1, 3, 4, 6-7, 9-11, and 15 are canceled without prejudice and claim 12 is amended. Claims 12-14 and 16 are pending in the application. No new matter has been added. The amendment and cancellation of claims should in no way be construed to be in acquiescence to any of the rejections. The amendment and cancellation of the claims is being made solely to expedite prosecution of the above-identified patent application. Applicant reserves the option to further prosecute the same or similar claims in the present or subsequent patent applications.

Rejection Pursuant to 35 U.S.C. § 103(a)

The Office Action rejected claims 7,10-14 and 16 pursuant to 35 U.S.C. § 103(a) as being unpatentable over Collins (US 6,613,053) in view of Frigg (US 6,206,881) in view of Bono (US 5,954,722). Applicant respectfully traverses this rejection based on the following arguments.

By the present amendment, claim 12 is amended to recite that the outer surface of the proximal head of the at least one bone anchor tapers at a taper angle and the plurality of the peaks of the bushing are aligned in a generally frusta-conical shape that tapers at a peak angle distally from a proximal surface of the bushing to a distal surface of the bushing. Claim 12 further recites that the taper angle of the outer surface of the proximal head of the bone anchor is generally equal to the peak angle of the peaks and that the peaks of the bushing engage the outer surface of the proximal head of the bone anchor to facilitate gripping engagement of the tapered proximal head of the bone anchor upon advancement of the bone anchor into the bushing. The engagement of the outer surface of the tapered proximal head of the bone anchor by the peaks is sufficient to lock the bone anchor to the bushing. Support for the amendment to claim 12 can be found throughout the application as originally filed including at paragraph 31 and in FIGURES 4 and 5.

The prior art of record, either alone or in combination, including Collins, Frigg, and Bono, fails to teach or suggest the subject matter of amended claim 12. In particular, neither Collins, Frigg nor Bono, alone or in combination, teach or suggest that the taper angle of the outer surface of the proximal head of the bone anchor is generally equal to the peak angle of the peaks and that the peaks of the bushing engage the outer surface of the proximal head of the bone anchor to facilitate gripping engagement of the tapered proximal head of the bone anchor upon advancement of the bone anchor into the bushing, the engagement being sufficient to lock the bone anchor to the bushing, as recited claim 12.

For at least this reason, Applicant requests that the rejection of claims 12, and claims 11, 13, 14 and 16 dependent thereon, under 35 U.S.C. § 103 be withdrawn.

Conclusion

In view of the remarks set forth above, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting the prosecution of the application, the Examiner is invited to call the undersigned at (508) 880-8488.

Respectfully submitted,

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